

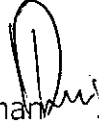
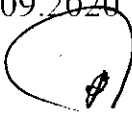


## FORM-A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. E.P No - 1 of 2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	1/1/2020	<p>The Execution petition of Mian Zaman Khan submitted today by Ali Gohar Durrani, Advocate may be entered in the relevant Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2.	06/01/20	<p>This execution petition be put up before S.Bench on <u>24/01/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.01.2020	<p>Junior to counsel for the petitioner. <del>Nemo for the petitioner.</del></p> <p>Notices be issued to the respondents. To come up for implementation report on 11.03.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	09.07.2020	<p>Nemo for the petitioner.</p> <p>Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p> <p>Notice be issued to the petitioner, his counsel and representative of the respondents, for 09.09.2020 before S.B, for implementation report.</p> <p style="text-align: right;"> Member (J)</p>

11.03.2020

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Fazle Subhan, Section Officer for the respondents present. Representative of the department stated that the implementation report is under process and requested for further time. Adjourned to 15.04.2020 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

15.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 09.07.2020 for the same. To come up for the same as before S.B.

  
Reader

09.07.2020

Nemo for the petitioner.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Notice be issued to the petitioner, his counsel and representative of the respondents, for 09.09.2020 before S.B, for implementation report.

Member (J)

Post Script

09.07.2020

Later on, petitioner attended the court at 12:00 hours, therefore, the respondents are directed to submit implementation report on or before the date fixed before S.B.



Member (J)

09.09.2020

Petitioner in person and Addl. AG alongwith Fazle Subhan, SO for the respondents present.

Representative of respondents states that the implementation of judgment is underway and will be finalized shortly. He, therefore, requests for adjournment.

Adjourned to 11.11.2020 on which date the needful shall be done by the respondents without fail.

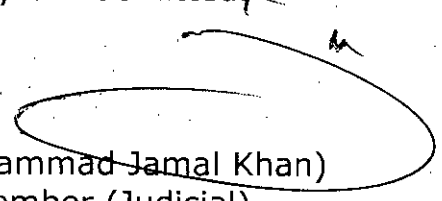


Chairman

11.11.2020

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Implementation report not submitted by respondents. Learned Additional Advocate General requests for time to contact the respondents. Adjourned to 29.12.2020 on which date implementation report shall positively be submitted.



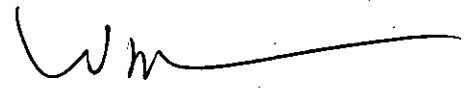
(Muhammad Jamal Khan)  
Member (Judicial)

29.12.2020

Petitioner alongwith counsel and Muhammad Rasheed DDA alongwith Fazal Wadood Section Officer for respondents present.

Representative of the respondents furnished correspondence in respect to promotion on notional basis but failed to furnish implementation report. If representative of the respondents fails to furnish implementation report on the next date, punitive action shall be taken against the respondents.

To come up for implementation report on 15.02.2021 before S.B.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

15.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 12.04.2021.

  
Reader

12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 19.07.2021 for the same as before.

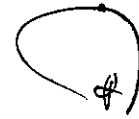
  
Reader

19.07.2021

Petitioner with counsel present.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Learned A.A.G apprised the Tribunal that the Director has promised to take all measures necessary for the notional promotion of petitioner and he will send the required documents to P.S.B in the upcoming P.S.B meeting. To come up for implementation/compliance report on 05.08.2021 before S.B.



(Rozina Rehman)  
Member (J)

05.08.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith Saleem Khan, S.O for the respondents present.

The representative of the department has produced copy of letter dated 04.08.2021 addressed to the Section Officer (PSB) Establishment Department Civil Sectt. Peshawar on the subject of Working Paper for notional promotion in respect of the petitioner containing reply of the department with observations. Accordingly five sets of working paper has been resubmitted for necessary action. Placed on record. Respondents are required to pursue the working paper and submit compliance report on 08.09.2021 before S.B.



Chairman

08.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks short adjournment to contact the respondents and facilitate submission of implementation report. Case to come up for implementation report on 13.10.2021 before S.B.

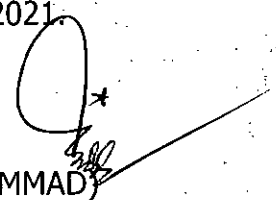


Chairman

13.10.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Syed Naseer Ud Din Shah, Assistant for respondents present.

Representative of the respondent-department stated at the Bar that letter dated 16.06.2021 has been sent to the Establishment Department alongwith working paper for meeting of PSB. It is pathetic and deplorable to note that implementation of the judgement dated 08.08.2019 in service appeal No. 552/2015, is yet to be honoured. The respondent-department is given a last chance to implement the said judgement and to come up for final and conclusive before the S.B on 13.12.2021.



(MIAN MUHAMMAD)  
MEMBER (E)

14.12.2021

Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Naseer Ud Din Shah, Assistant for respondents present.

Written Representative of the respondents seeks time as the implementation/execution is under process and will be submitted soon. However, the department had been given last chance for implementation of Service Tribunal judgement dated 08.08.2019 by the court on last hearing on 13.10.2021. The department did not come up with plausible reason(s) for adjournment and seeking extension to submit execution report. Hence, a cost of Rs. 2000/- is imposed to be deposited in the office of Registrar Service Tribunal on the next date. To come up for further proceedings on 02.02.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

02.02.2022

Junior to learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present. Preliminary arguments could not be heard due to learned Member (Executive) Mian Muhammad is on leave. To come up for further proceedings on 22.03.2022 before S.B.

  
Reader

22.03.2022

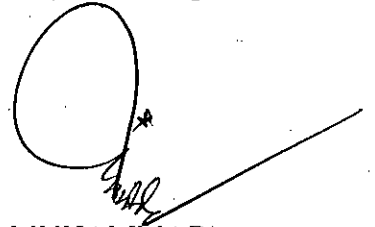
None present on behalf of the petitioner. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Notice be issued to petitioner and his counsel for next date. To come up for further proceedings on 05.04.2022 before S.B.

  
Chairman

05.04.2022

Junior to counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. M. Faizan Zaib, SO for respondents present.

Representative of the respondents submitted copy of notification dated 24.01.2022 which is placed on file. A copy of the same is also handed over the junior to learned counsel for the petitioner. Adjourned. To come up for further proceedings on 20.06.2022 before S.B.



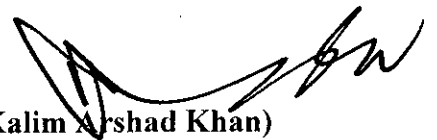
(MIAN MUHAMMAD)  
MEMBER(E)

20<sup>th</sup> June, 2022

1. None present for the petitioner. Mr. Kabirullah Khattak, Addl: AG for respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the petitioner. In view of the above, the execution petition is dismissed for non-prosecution. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 20<sup>th</sup> day of June, 2022.*



(Kalim Arshad Khan)  
Chairman



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

In Re:

Implementation Petition No. 01 / ~~2019~~ 2020

In

Service Appeal No. 552/2015

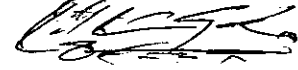
Mian Zaman Khan Vs. Government of KP and others

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5.	Copy of the Application for Implementation	C	14
6.	Copy of the minutes of the meeting	D	15-16
7.	Wakalat Nama		17

**Petitioner**

Through



(ALI GOHAR DURRANI)

Advocate High Court

0332-9297427

[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)

Shah | Durrani | Khattak

62-C/1, University Road,

University Town, Peshawar.

①

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 01

Dated 01-01-2020

In Re:

Implementation Petition No. 01 / 2015 2020

In

Service Appeal No. 552/2015

**Mian Zaman Khan Ex-Principal Government Higher Secondary Gandaf  
District Swabi.**

Versus

1. **Government of Khyber Pakhtunkhwa through Chief Secretary  
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.**
2. **Secretary Elementary & Secondary Education Civil Secretariat,  
Peshawar.**
3. **Secretary to Government of Khyber Pakhtunkhwa  
Establishment Department.**
4. **Chairman, Provincial Selection Board (Chief Secretary), Civil  
Secretariat, Peshawar.**

**IMPLEMENTATION PETITION TO GIVE EFFECT & IMPLEMENT  
THE JUDGMENT OF THIS HONORABLE TRIBUNAL DATED 08-08-  
2019.**

**Filed to-day**  
**Registrar**

01/01/19

**Respectfully Submitted:**

Petitioner most earnestly craves the permission of this Honorable Court, to submit as under:

1. That the petitioner filed Service Appeal No. 552/2015 titled Mian Zaman Khan Vs. Government of KP & others before this Honorable Tribunal.

Copy of the Service Appeal No. 552/2015 is Annex-A

2. That this Honorable Tribunal was pleased to allow the Service Appeal on 08-08-2019 in the following terms:

"As a sequel to the above, the instant appeal is accepted and the respondents are directed to consider the case of the appellant for promotion to BPS-19 on notional basis from the date his junior colleagues were promoted. Parties are left to bear their own costs."

Copy of the Judgment dated 08-08-2019 is Annex-B.

3. That the petitioner has since applied to the respondents to give effect to the judgment, however they have yet to implement the judgment of this Honorable Tribunal.

Copy of the Application dated 12-09-2019 is Annex-C

4. That the petitioner now approaches this Honorable Tribunal for directions to implement the judgment dated 08-08-2019 in the larger interest of justice and fairplay.
5. That it is also pertinent to mention that in the minutes of Scrutiny Committee Meeting of the Law Department dated 02-10-2019, at agenda Item No. 4, it was held that the case was not fit for filing of CPLA on behalf of the respondents, thus there is under the law no hindrance to give effect to the judgment, however the respondents are not giving it effect.

Copy of the minutes of the meeting dated 02-10-2019 are Annex-D.

**Prayer:**

It is therefore most humbly prayed that on the acceptance of this petition, may it please this Honorable Tribunal to so kindly direct the implementation of the judgment dated 08-08-2019 in Service Appeal No.

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552/2015 Mian Zaman Khan Vs. Government of KP through Chief  
Secretary & others, any other relief that this honorable tribunal may deem  
appropriate in the circumstances of the case may also be given.

Petitioner

Through



(ALI GOHAR DURRANI)

Advocate High Court

0332-9297427

[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)

Shah | Durrani | Khattak

62-C/1, University Road,

University Town, Peshawar.

4

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

In Re:

Implementation Petition No. \_\_\_\_\_/2019

In

Service Appeal No. 552/2015

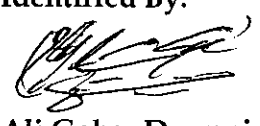
Mian Zaman Khan Vs. Government of KP and others

**AFFIDAVIT**

I, Mian Zaman Khan Ex-Principal Government Higher Secondary Gandaf District Swabi do hereby solemnly affirm and declare on oath that the contents of accompanied Implementation petition are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honorable Tribunal.

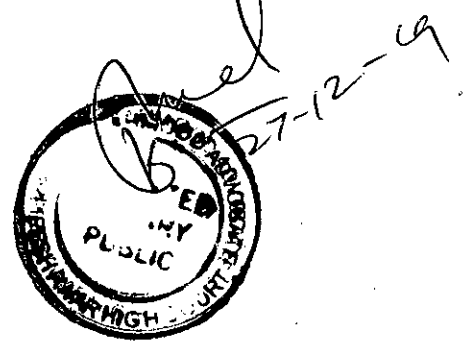
  
Deponent

Identified By:



Ali Gohar Durrani

Advocate High Court(s)



Annex A  
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**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2015

*Mian Zaman Khan Ex Principal Govt Higher School Gandaf (Now Retired) District Swabi.*

(Appellant)

**VERSUS**

Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others.

(Respondents)

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Appellant

Through

**IJAZ ANWAR**  
Advocate Peshawar  
&

**SAJID AMIN**  
Advocate, Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_/2015

*Mian Zaman Khan Ex Principal Govt Higher School Gandaf (Now Retired) District Swabi.*

(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Elementary & Secondary Education Civil Secretariat Peshawar.
3. Secretary, to the Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariat, Peshawar.
4. Chairman, Provincial Selection Board (Chief Secretary) Civil Secretariat, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against decision of the Provincial Selection Board for not considering the Petitioner for Promotion to the Post of Principal BPS-19 on the ground of being retired from service and against not taking action upon the departmental appeal of the appellant.

Prayer in Appeal: -

On acceptance of this appeal the respondents may please be directed to consider the appellant for proforma promotion to the post of Principal BPS-19 from the date when the posts were available with all back/ consequential benefits.

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**Respectfully Submitted:**

1. That the appellant was initially appointed as SET BPS-14 in the Education Department.
2. That while serving in the said capacity the appellant applied for the post of Head Master BPS-17 through Public Service Commission, the appellant was selected and accordingly was appointed vide notification dated 21.4.1993. *(Copy of notification dated 21.4.1993 is attached as annexure A).*
3. That during the course of his service the appellant was promoted as Principal BPS-18 vide notification dated 9.02.2004. *(Copy of notification dated 9.2.2004 is attached as annexure B).*
4. That as per the revised final seniority list of Officers BPS-18, the name of the appellant is at S.No. 33 among the Officers BPS-18 of Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar. *(Copy of revised seniority list is attached annexure C).*
5. That the Provincial Govt has created 400 posts of BPS-19 and were required to be filled as per the 4 tier formula besides this 48 posts were already vacant since 01.02.2012.
6. That the respondent department has processed the promotion cases, similarly the documents of the appellant were also prepared for including it in the working paper for promotion to BPS-19, however, the matter was un-necessarily delayed.
7. That the appellant submitted different representations from time to time stressing upon the respondents to convene the meeting of the PSB so as to consider his case for promotion to BPS-19 in the wake of his retirement, however, that paid no heed to it. *(Copies of the representation are attached as annexure D).*
8. That vide notification dated 11.12.2013 the appellant stood retired from service with effect from 11.12.2013 on attaining the age of superannuation. *(Copy of the notification dated 11.12.2013 is attached annexure E).*
9. That in the meantime the cases of promotion were processed and the PSB held its meeting on 7.01.2014 and considered the cases of colleagues and juniors of the appellant and accordingly vide notification dated 21.4.2014 promotion to BPS-19 of about 225 Officers were issued. *(Copies of the notification dated 21.4.2014 is attached as annexure F).*



10. That feeling aggrieved from the illegal acts and omissions of the respondents, the appellant approached the Honourable Peshawar High Court Peshawar in W.P No. 1619-P/2014, however due to lack of jurisdiction, the Honourable High Court has vide order dated 19.05.2015, while treating the Writ Petition as Service Appeal transferred it to this Honourable Tribunal hence the instant appeal. *(Copies of the Memo of Writ Petition is attached as Annexure G)*
11. That the appellant prays for the acceptance of the instant appeal inter alia on the following grounds:

**GROUND OF SERVICE APPEAL:**

- A. That the appellant has not been treated in accordance with law. The P.S.B has not followed the Law and Rules governing promotion, thus the secured and guaranteed rights of the appellant were violated.
- B. That the decision of the PSB is arbitrary, whimsical and not on accepted norms / rules, the respondents were under legal obligation to have promoted the appellant, but despite the eligibility and fitness of the appellant he was not considered on account of his retirement.
- C. That the mandatory provisions of Section 9 of NWFP Civil Servant Act, 1973 read with NWFP Civil Servant (Appointment, Promotions and Transfer) Rules, 1989 and enabling instructions contained in the ESTA Code have not been adhered to by the respondents as there were vacant posts available, however, due to the slackness of the respondents the necessary process was not completed during the service of the appellant and thus he has been deprived of his legal and due rights.
- D. That as per the seniority list as it stood on 27.5.2013, the name of the appellant was within the promotion zone, similarly his case was duly processed for promotion, his name was included in the working paper albeit was not considered for the reason of his retirement from service in the meantime, such being the case the treatment meted out to him as illegal and unlawful.
- E. That since the appellant was fit, eligible for promotion to the post of Principal BPS-19 during service, however due to the slackness/ inaction of the respondents no promotion process was carried out, hence on his retirement his right subsists and

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is entitled to proforma promotion, so as to have its financial benefits in the shape of pension etc.

- F. That the Appellant seek the permission of this Honourable Court to rely on additional grounds at the hearing of this appeal.

*It is, therefore, humbly prayed that on acceptance of this appeal the respondents may please be directed to consider the appellant for proforma promotion to the post of Principal BPS-19 from the date when the posts were available with all back/consequential benefits.*

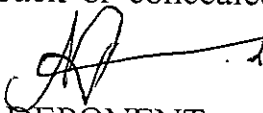
Through *Appellant*

**IJAZ ANWAR**  
Advocate Peshawar  
&

**SAJID AMIN**  
Advocate, Peshawar

**AFFIDAVIT**

I, *Mian Zaman Khan Ex Principal Govt Higher School Gandaf (Now Retired) District Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct and that nothing has been kept back or concealed from this Honourable Tribunal.

  
DEPONENT

Amma B

10

**IN THE PESHAWAR HIGH COURT PESHAWAR**

*Service Appeal No. 552/15*



W. P No. 1618-P/2014

*Mian Zaman Khan Ex Principal Govt Higher School Gandaf  
District Swabi.*

(Petitioner)

VERSUS

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Elementary & Secondary Education Civil Secretariat Peshawar.
3. Secretary, to the Government of Khyber Pakhtunkhwa Establishment Department Civil Secretariat, Peshawar.
4. Chairman, Provincial Selection Board (Chief Secretary) Civil Secretariat, Peshawar.

(Respondents)

**Writ Petition under Article 199 of the Constitution  
of Islamic Republic of Pakistan, 1973**

Prayer in Writ Petition:

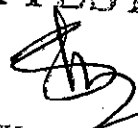
On acceptance of this Writ Petition an appropriate Writ may please be issued declaring the decision of the Provincial Selection Board for not considering the petitioner to the post of Principal BPS-19 on the ground of being retired from service is illegal, unlawful, without lawful authority, against the Rules and thus liable to be struck down, the Petitioner being fit & eligible for promotion to the post of Principal BPS-19 has every right to be considered as such for the said post and promoted with all consequential pensionary benefits.

Or

Any other remedy deemed proper in the circumstances of the case may also be allowed

FILED TODAY  
Deputy Registrar  
22 MAY 2014

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 552/2015

Date of Institution ... 29.05.2015

Date of Decision ... 08.08.2019



Mian Zaman Khan, Ex-Principal Govt: Higher School Gandaf, District Swabi.  
... (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and three others.  
... (Respondents)

MIAN ZAMAN KHAN,  
Appellant

--- In person .

MR. MUHAMMAD JAN,  
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN;  
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Executive)  
--- MEMBER (Judicial)

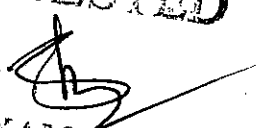
**JUDGMENT**

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

02. Appellant personally argued his case and stated that he initially joined the Education Department as SET (BPS-14). On the recommendations of Khyber Pakhtunkhwa Public Service Commission, he was selected for the post of Head Master (BPS-17) vide notification dated 21.04.1993 and got promoted to Principal (BPS-18) through notification dated 09.02.2004. That in the final seniority list of officers of BPS-18, his name was placed at serial no. 33. The Provincial Government created 400 posts of (BPS-19) under four tier formula, in addition to 49 posts already lying vacant since 01.02.2012. The respondents processed

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

12


promotion case of eligible officers including the appellant. Furthermore, his name was included in the working paper prepared for promotion. However, it was unnecessarily delayed for reasons best known to the respondents. The appellant made repeated applications to consider his promotion case but to no avail. Finally, vide notification dated 11.12.2013, he stood retired from service w.e.f. the said date. After his retirement promotion case of eligible officers was considered by the PSB in its meeting held on 07.01.2014 and cases of colleagues/juniors of the appellant were recommended for promotion. Promotion of 225 officers was notified vide notification dated 21.04.2014 including one Saleem Khan, who stood retired from government service on 01.01.2014. He further prayed that the appellant was entitled for notional promotion from the date his colleagues/juniors got promoted to BPS-19.

03. Learned Deputy District Attorney argued that he got retired from Government service on 11.12.2013, therefore, according to Section-9 of Khyber Pakhtunkhwa Civil Servants Act 1973, he was not entitled for promotion after retirement. Allegations of unnecessary delay on the part of respondents leveled by the appellant were unfounded and baseless. All codal formalities were observed by the respondents, while processing his case.

### CONCLUSION

4. The plea taken by the appellant that his name was reflected at serial no. 33 of the seniority list of BPS-18 officer of the respondent-department has been conceded by the respondents. Similarly in para-5 of the appeal, he asserted that 400 newly created posts of BPS-19 created under four tier formula were required to be filled, alongwith 48 posts already lying vacant. However, respondents failed to rebut the

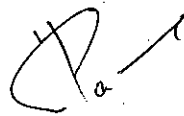
ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

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stance of the appellant in their para-wise comments. A copy of working paper prepared for promotion to the post of BPS-19 forwarded by the Director Elementary and Secondary Education vide letter dated 20.02.2012 was placed on record, which indicated that name of the appellant was reflected on serial no. 24 and as per remarks he was eligible for promotion. It is an undeniable proof that promotion case was deliberately delayed by the respondents for one reason or the other. Officers promoted to BPS-19 vide notification dated 21.04.2014 were either colleagues or juniors of the appellant. It clearly stipulated that he had a bonafide claim for promotion to BPS-19 alongwith aforementioned officers. Case of the appellant for promotion to BPS-19 on notional basis has every merit to be considered by the PSB without further loss of time.

5. As a sequel to the above, the instant appeal is accepted and the respondents are directed to consider the case of the appellant for promotion to BPS-19 on notional basis from the date his junior colleagues were promoted. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)  
MEMBER



(AHMAD HASSAN)  
MEMBER

**ANNOUNCED**  
08.08.2019

**Certified to be true copy**

**Director  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar**

Date of Presentation of Application 08-08-19  
 Number of Words 1600  
 Copying Fee 20-00  
 Urgent —  
 Total 20-00  
 Name of Copyist [Signature]  
 Date of Completion of Copy 12-09-19  
 Date of Delivery of Copy 12-09-19

Diary No 459

To,

12/9/2019

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Amna

The Secretary,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Subject: IMPLEMENTATION OF APPEAL NO. 552/15 FOR PROMOTION TO BPS-19 ON NOTIONAL BASIS AS DECIDED ON 08/08/2019 BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Respected Sir,

I was retired as principal (BPS-18) from GHS Gandaf Swabi on 11/12/2013 on Superannuation.

I was eligible for promotion to BPS-19 as detail reflected in appeal above accepted by Khyber Pakhtunkhwa Service Tribunal, Peshawar on referred grounds, but my promotion was differed in PSB on 07/01/2014 due to my retirement on 11/12/2013.

I approached to Khyber Pakhtunkhwa Service Tribunal, Peshawar for claiming justice under the rules and law.

The Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar has accepted my appeal on notional promotion to BPS-19 w.e.f 21/04/2014 as notified for 225 others officers of the BPS-18.

Therefore, kindly pursue my case on sympathetic basis as directed by Khyber Pakhtunkhwa Service Tribunal, Peshawar in his decision announced on 08/08/2019 and oblige Sir.

Dated: 12/09/2019

Yours Obediently,

MIAN ZAMAN KHAN  
Ex-Principal (Retried) GHS Gandaf  
(Gadoon) District Swabi.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

"A" Civil Secretariat, Peshawar

Phone No. 091-9211121

**URGENT IMMEDIATE / COURT MATTER**

NO.SO (Lit-II) E&SED/1-3/SA # 1103/2017/Hafiz Muhammad Sadiq.  
Dated Peshawar, the 05-04-2019.

To

1. The Director, I & SE, Peshawar.
2. The Section Officer (S/M),  
E&SE, Department,  
Peshawar

②  
10/10/19

10/10/19

①  
Annex  
①  
15

Subject:

SERVICE APPEALS NO.552/2015 CASE TITLED MIAN ZAMAN  
KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA  
THROUGH CHIEF SECRETARY & 03 OTHERS.

I am directed to refer to the subject noted above to to enclose herewith a copy of letter No.SO(Lit)LD/9-5(53)/E&SED/2019/18784-87/W.E dated 09-10-2019 alongwith a copy of the minutes of the meeting held on 02-10-2019 under the Chairmanship of Secretary Law Department, Govt. of Khyber Pakhtunkhwa, received from Section Officer (Lit), Law Department.

I am further directed to inform you that the committee unanimously decided that subject case was an unfit case for filling of CPLA in the Supreme Court of Pakistan being lack of evidence as the Department had no evidence for filling of CPLA in the Apex Court of Pakistan.

Encl: (As above)

Endst: of even NO. & date.

Copy forwarded to the:-

1. The Section Officer (Lit) Law Department, Govt. of Khyber Pakhtunkhwa, Peshawar w.r to his letter No. & date cited above.
2. PS to Secretary I & SE, Department.
3. PA to Deputy Secretary (Legal) E&SE Department, Peshawar.

SECTION OFFICER

SECTION OFFICER (LIT)





MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 4)

SERVICE APPEAL NO. 552/2015 MIAN ZAMAN KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY AND 3 OTHERS.

Meeting of the Scrutiny Committee was held on 02.10.2019 at 12:00 hours in the office of Secretary, Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of Appeal/CPLA in the Supreme Court of Pakistan. AAG (Mr. Muhammad Sohail) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.

The Chairman of the Committee invited the representatives of E&SE Department Mr. Abdul Akram, DS alongwith Mr. Fazal e Subhan, SO (Lit-II) to apprise the Committee about the background of the case which they did accordingly and stated that the appellant filed the subject service appeal with the prayer that the appellant was entitled for notional promotion from the date his colleagues/juniors got promoted to BPS-19. The Khyber Pakhtunkhwa Service Tribunal accepted the appeal and directed the respondent to consider the case of the appellant for promotion to BPS-19 on notional basis from the date his colleagues/juniors were promoted vide order dated: 08.08.2019. Now, the Department intended to file CPLA against the judgment on the following grounds:

GROUND/DISCUSSIONS:

The grounds as proffered by the representative of the Department were that the Court ignored the record and material facts placed before it. He further added that the appellant was not entitled for promotion after retirement. The Scrutiny Committee asked the Departmental Representative that on what grounds the Department intends to file CPLA in the Apex Court of Pakistan upon which the Departmental Representative could not forward any plausible grounds for filing of CPLA in the Apex Court of Pakistan. The Scrutiny Committee noticed that the Department had lack of evidence for filing CPLA in the Apex Court of Pakistan.

DECISION:

Hence in view of above it was decided with consensus by the Scrutiny Committee that the subject case was not a fit case for filing of Appeal/CPLA in the Supreme Court of Pakistan due to lack of evidence as the Department had no evidence for filing of CPLA in the Apex Court of Pakistan.

WASIMA JAMIL  
SOLICITOR

# POWER OF ATTORNEY

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## BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

Implementation Petition No. \_\_\_\_\_ of 2019

Mian Zaman Khan  
(Petitioner)

VERSUS

Government of Khyber Pakhtunkhwa & others  
(Respondent)

I/ Mian Zaman Khan the above named Petitioner do hereby appoint & constitute

**ALI GOHAR DURRANI, ADVOCATE OF THE  
HIGH COURT(S)** as counsel (for Government of Khyber Pakhtunkhwa) in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Complaint/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defence of the said case at any stage.
3. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

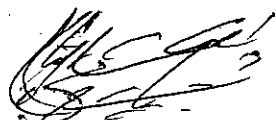
### AND HEREBY AGREE:-

- a) To ratify whatever the said Advocate may do in the proceedings in my interest
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
- c) That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this Monday day of December at 2019.

Signature of Executant(s)

Accepted subject to term regarding payment of fee.



**ALI GOHAR DURRANI (BC-13-4247)**

Advocate High Court

[khaneliegohar@yahoo.com](mailto:khaneliegohar@yahoo.com)

+92-332-929-7427

17101-8851818-1

Shah | Durrani | Khattak

62/C-1, University Road, University Town, Peshawar, Khyber Pakhtunkhwa.

Most Immediate  
Court Matter- Reminder-I



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No.SO(SM) /E&SED1-1/Mian Zaman/  
Dated Peshawar the December 14, 2020

To,

The Director,  
Elementary & Secondary Education,  
Peshawar.

Subject: - **PROMOTION ON NOTIONAL PROMOTION.**

I am directed to refer to this office letter of even No. dated 03.12.2020 on the subject noted above and to request you to expedite the case being court matter.

Yours faithfully,

(MUJEEB UR RAHMAN)  
SECTION OFFICER (SCHOOLS MALE)

**Endst: Even No. & Date:**

Copy of the above is forwarded to the: -

1. Section Officer (Lit-II) w.r.t. his letter No. SO(Lit-II)/1-3/SA#552/15/Mian Zaman, Ex-Principal dated 09.09.2020
2. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.

  
SECTION OFFICER (SCHOOLS MALE)

Most Immediate  
Court Matter



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No.SO(SM)/E&SED1-1/Mian Zaman/  
Dated Peshawar the December 03, 2020

To,

The Director,  
Elementary & Secondary Education,  
Peshawar.

Subject: - PROMOTION ON NOTIONAL PROMOTION.

I am directed to refer to your letter No. 1035/F.No. PF. Mian Zaman, Ex-Principal dated 17-09-2020 on the subject noted above and to state that there is contradiction in your quoted letter and PSB-I proforma in respect of notional promotion of Mr. Mian Zaman, Ex-Principal. The same was brought into the notice of the Deputy Director concerned but in vain.

It is therefore, requested that working paper (PSB proforma) may please be rectified according to your letter under reference and the same may be resubmitted within three days positively, being court matter. Any<sup>^</sup>advertence caused in the court of Law will be the responsibility of concerned.

Yours faithfully,

(MUJEEB UR RAHMAN)  
SECTION OFFICER (SCHOOLS MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the: -

1. Section Officer (Lit-II) w.r.t. his letter No. SO(Lit-II)/1-3/SA#552/15/Mian Zaman, Ex-Principal dated 09.09.2020
2. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.

  
SECTION OFFICER (SCHOOLS MALE)

29/12/20

بخدمت جناب چیئرمین صاحب سروس ٹریبیونل خیبر پختون خواہ پشاور  
عنوان : دادرسی ایگزیکوشن اپیل نمبر 552/2015 (01/20/2019)



جناب اعلیٰ!

مودبانہ گزارش حسب ذیل ہے جناب والا میں محکمہ ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختون خواہ سے بحثیت پرنسپل BPS-19 مورخہ 12/12/2013 کو ساٹھ سالہ ملازمت مکمل کر کے ریٹائر ہو چکا ہوں۔ چونکہ میں BPS-19 کا حقدار تھا اس لیے میں نے بحوالہ اپیل نمبر 552/2015 بابت BPS-19 سروس ٹریبیونل خیبر پختون خواہ سے رجوع کیا۔ جس کا فیصلہ 08/08/2019 کو میرے حق میں صادر ہوا۔ 02/10/2019 کو سکروٹنی کمیٹی لاء فار ایلیمنٹری افینر اینڈ ہیومن رائٹس ڈیپارٹمنٹ نے مزید CPLA کیلئے ناکافی قرار دیا۔

محکمہ delay ٹیکٹس کی وجہ سے میں نے implementation کے لیے بحوالہ 1/20/2019 اپیل داخل کی۔ ابھی کیس Execution میں ہے اس میں 8 تو 9 پیشیاں ہوں چکی ہیں۔

لیکن ڈیڑ سال گزرنے کے باوجود محکمہ ایلیمنٹری اینڈ سیکنڈری ایجوکیشن ٹال مٹول سے کام لیکر انصاف دلانے سے قاصر ہے۔

ہر تاریخ پر پیشی کے لیے میں 200 کلومیٹر دور سے آتا ہوں جبکہ محکمہ کے نمائندے کو ہر مرتبہ بلا یا جاتا ہے۔ ان 6 سالوں میں وکیلوں اور پیشیوں پر لاکھوں خرچ ہوئے جبکہ میری عمر 68 ویں سال میں داخل ہو چکی ہے۔

معلوم نہیں کہ میں اپنے ہوئے ہوئے پودے کا پھل خود چکھ سکونگا کہ نہیں۔ لہذا مودبانہ التماس ہے کہ مندرجہ بالا (Execution) میں ذاتی دلچسپی لیکر مجھے انصاف فراہم کرنے کو آسان بنا کر پایہ تکمیل تک پہنچائے۔  
عمر بھر دغا گورہونگا۔ اگلی پیشی 29 دسمبر 2020 کو ہے۔

العارض

سائل میان زمان خان ولد میر زمان خان  
کابگنی گدون تحصیل ٹوبی ضلع صوابی  
اپیل نمبر 552/2015  
ایگزیکوشن اپیل 1/20/2019

Dated: 27/11/2020

put up to the court with  
relevant application



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223533

No.SO(SM) E&SE/1-1/2015/Mian Zaman  
Dated Peshawar the August 04, 2021

To

The Section Officer (PSB)  
Establishment Department  
Civil Secretariat Peshawar

*[Signature]*  
05/8/2021

Subject: - **WORKING PAPER FOR NOTIONAL PROMOTION I.R.O MIAN ZAMAN, EX-PRINCIPAL GHSS GANDAF SWABI.**

I am directed to refer to your letter No.SO (PSB)/ED/1-4/2021/P-26 dated 06.05.2021 on the subject noted above and to submit reply to the observations raised in your letter under reference.

S.N	Observations	Reply
i.	The documentary proof of the post that remained vacant w.e.f. 01.07.2021 to 20.04.2014	It is submitted that the documentary proof is already attached as Annex-A.
ii.	Notified Seniority list showing the name of the appellant may be provided along with working paper.	Notified Seniority list is attached Annex-J.
iii.	Original PERs dossier of the appellant may be provided for perusal of the Board.	Original PERs dossier are annexed for the period 01.01.2004 to 31.12.2012. Annex-K
iv.	The administrative department has mentioned in PSB-I proforma that the case of the appellant for promotion to BS-19 must be considered on notional basis whereas promotion policy 2009 explains notional promotion as such that the civil servants who retire or expire after recommendation of their promotion by the PSD but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be and their pension shall be calculated as per pay which they would have received had they not retired/expired. The appellant has since retired from service then how the Board would consider his promotion on notional basis.	The case has been submitted in compliance with the Service Tribunal's Judgment in appeal No.522/2015 Annex-F.
v.	Retirement notification of the appellant is also not available with the working paper.	Retirement Notification dated 11.12.2013 in respect of the appellant is attached herewith as Annex-H

05 sets of working paper is resubmit for further necessary action please.

*[Signature]*  
(HAFEEZ UR REHMAN SHAH)  
SECTION OFFICER (SCHOOLS/MALE)

Even No. & Date:

The above is forwarded to the PS to Secretary, E&SE Department Khyber Pakhtunkhwa, and Peshawar.

*[Signature]*  
SECTION OFFICER (SCHOOLS/MALE)